

### **REMARKS**

In the Restriction Requirement mailed April 22, 2005, the claims were divided into sixteen groups. Applicant elects Group III, claims 10-21, drawn to fusion proteins displayed on a yeast cell surface, with traverse. In addition, the Restriction Requirement required a further election of one of the SEQ ID No:s recited in claim 18. Applicant elects SEQ ID No. 24, with traverse.

In the Restriction Requirement, it is stated that "Inventions II, III, IV, V, VII, X, XI and XIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP 806.04, 808.01). In the instant case the different inventions involve . . . with each invention being independent of the others. Each invention does not require the particulars of the other for patentability and each is capable of supporting a separate patent." The Restriction Requirement also states: Inventions I, IV, VI, VIII, IX, XII and XIV-XVI are unrelated and cites the same sections of the MPEP.

The portion of MPEP 806.04 cited in the Office Action does not contain the entire paragraph. The remainder of the paragraph of MPEP 806.04(A) which is not cited in the Office action is: "An article of apparel such as a shoe, and a locomotive bearing would be an example. A process of painting a house and a process of boring a well would be a second example." With respect to independent inventions, MPEP section 808.01 states "this situation. . . is but rarely presented, since persons will seldom file an application containing disclosures of independent things." The claims in the application are clearly not analogous to a shoe and a locomotive bearing and are therefore, not unrelated. Rejoinder of the Groups is respectfully requested. In addition, it is believed it would not be burdensome to examine all groups together, at least the groups that are classified in the same class and subclass. The statement "each invention requires the

particulars of the other for patentability" was not found by Applicant in the cited sections of the MPEP and is not believed to be the standard used in determining if inventions are independent.

Applicant does not concede to the other statements in the Office Action. In particular, with respect to Groups IV and V; XII and XIII; and VI and VII, the products as claimed, require the process. The product as claimed in claim 33 (Group IV) requires the method of claim 32 (Group V). The product as claimed in claim 86 (Group XIII) requires the method of claim 83 (Group XII). The product as claimed in claim 35 (Group VII) requires the process of claim 34 (Group VI) and the product as claimed in claim 37 (Group VII) requires the process of claim 36 (Group VI). Therefore, it is believed these groups should be rejoined.

The Office Action states: "Inventions I, VI, VIII, IX, XII, XIV-XVI (compositions) are unrelated to inventions II-V, VII, X, XI and XIII (methods)." In contrast to the statement in the Office Action, groups I, part of IV, VI, VIII, IX, XII, XIV-XVI are directed to methods. Groups II, III, part of IV, V, VII, X, XI and XIII are directed to compositions. The Office Action continues "In the instant case the different inventions involve compositions vs. methods where each of the methods is not required for generation of each of the claimed compositions and each of the compositions can be made or used independent of the claimed methods." This standard is not seen in the cited sections of the MPEP.

At the very least, it is believed that claims 22-29 of Group II should be joined with elected Group III and examined together. Group III is directed to fusion proteins having a specified amino acid sequence displayed on a yeast cell surface, and claims 22-29 of Group II are directed to a yeast cell displaying a fusion protein having a specified amino acid sequence. For illustration, claim 10 (Group III) claims: "A fusion protein displayed on a yeast cell surface, the amino acid sequence of said fusion protein consisting of a polypeptide sequence joined at its N-terminus to the C-terminus of an agglutinin subunit

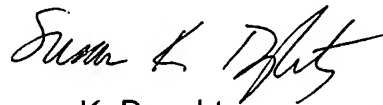
Aga2p sequence, said Aga2p being joined by two disulfide bonds to an agglutinin subunit Aga1p on said yeast cell surface" (emphasis added). Claim 22 (Group II) claims: "A yeast cell displaying a fusion protein having an amino acid sequence consisting of a ligand binding polypeptide sequence joined at its N-terminus to the C-terminus of an agglutinin subunit Aga2p sequence, said Aga2p being joined by two disulfide bonds to an agglutinin subunit Aga1p on said yeast cell surface" (emphasis added). These claims are related in the particulars of the amino acid sequence of the fusion protein. Reconsideration and rejoinder of Groups II and III, or at least claims 22-29 of Group II with elected Group III is respectfully requested.

### CONCLUSION

In view of the above arguments and amendments, reconsideration and withdrawal of the restriction requirement is respectfully requested. If there are any issues remaining, the Examiner is respectfully requested to contact the undersigned.

It is believed that the present submission does not require the payment of any fees. If this is incorrect however, please charge any fees required, including any extensions of time required, to Deposit Account No. 07-1969.

Respectfully submitted,



Susan K. Doughty  
Reg. No. 43,595

**GREENLEE, WINNER AND SULLIVAN, P.C.**  
4875 Pearl East Circle, Suite 200  
Boulder, CO 80301  
Telephone: (303) 499-8080  
Facsimile: (303) 499-8089  
E-mail: [winner@greenwin.com](mailto:winner@greenwin.com)  
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